



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

NOTICE OF ALLOWANCE AND ISSUE FEE DUE

IM52/0429

MICHAEL B HURD
SHOCK, HARDY, & BACON L.L.P.
ONE KANSAS CITY PLACE
1200 MAIN STREET
KANSAS CITY MI 64105-2118

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
08/811,434	03/03/97	003	BUSHEY, C	1724 04/29/99
First Named Applicant				

TITLE OF INVENTION LEE, 35 USC 154(b) term ext. = 0 Days.

DOWNCOMER FOR CHEMICAL PROCESS TOWER

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
1 27771-00210	261 114.100	050	UTILITY	NO	\$1210.00	07/29/99

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.

THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.

HOW TO RESPOND TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or
- B. If the status is the same, pay the FEE DUE shown above.

If the SMALL ENTITY is shown as NO:

- A. Pay FEE DUE shown above, or
- B. File verified statement of Small Entity Status before, or with, payment of 1/2 the FEE DUE shown above.

II. Part B-Issue Fee Transmittal should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B Issue Fee Transmittal should be completed and returned. If you are charging the ISSUE FEE to your deposit account, section "4b" of Part B-Issue Fee Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give application number and batch number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PATENT AND TRADEMARK OFFICE COPY

Notice of Allowability

Application No.
08/811,434

Applicant(s)
LEE ET AL

Examiner
Scott Bushey

Group Art Unit
1724



All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course.

☒ This communication is responsive to the Appeal Brief filed 3-29-99.

☒ The allowed claim(s) is/are 35-37 (renumbered as 1-3, respectively).

☐ The drawings filed on _____ are acceptable.

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE **THREE MONTHS** FROM THE "DATE MAILED" of this Office action. Failure to timely comply will result in ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.

☒ Applicant MUST submit NEW FORMAL DRAWINGS

☐ because the originally filed drawings were declared by applicant to be informal.

☒ including changes required by the Notice of Draftsperson's Patent Drawing Review, PTO-948, attached hereto or to Paper No. 6.

☐ including changes required by the proposed drawing correction filed on _____, which has been approved by the examiner.

☐ including changes required by the attached Examiner's Amendment/Comment.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the reverse side of the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

☐ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any response to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

☐ Interview Summary, PTO-413

☐ Examiner's Amendment/Comment

☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

☒ Examiner's Statement of Reasons for Allowance

Art Unit: 1724

REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance: Each of the rejections applied against the pending claims in the Final Office action have been withdrawn in view of the arguments and clarifying statements made in the Appeal Brief filed March 29, 1999.

Specifically, parent application 08/742,819, which has been unavailable to the Examiner during the prosecution of the instant application, has become available due to the issuance of U.S. Patent No. 5,895,608 therefrom. Upon review of the patented claims therein, it is clear that they are indeed patentably distinct from claims 35-37 pending in this application. Therefore, 37 CFR 1.130, which applies only when the inventions defined by an application and a patent are not identical, but are not patentably distinct, does not apply to the instant application. As such the pending rejection under 35 U.S.C. 102(e) is moot and has been withdrawn.

With respect to the rejection of the claims under 35 U.S.C. 102(b) as being "on sale", the crucial issue therein lies with the effective filing date accorded the instant invention. Previously, the Examiner has held that the instant application had only the right to the actual filing date of this application, rather than that of the parent application, since this application has named a different inventive entity. However, in the Appeal Brief, it has been made clear that the additional inventor, Leon Fan, named in this application, was indeed an inventor of that which was disclosed, but unclaimed in the parent application, the unclaimed material in the parent application being that which is recited by the claims in this application. Therefore, in view of the clarifying statements

Art Unit: 1724

made in the Appeal Brief as to the inventorship of the claims in the parent application and this application, it is clear that the instant application is entitled to the filing date of parent application 08/742,819.

Since the only remaining rejections have been rendered moot in view of the arguments and clarifying statements as set forth in the Appeal Brief filed March 29, 1999, claim 35-37, the only pending claims in this application are hereby allowed.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Bushey whose telephone number is (703) 308-3581.

csb

April 28, 1999

C. SCOTT BUSHEY
PRIMARY EXAMINER
GROUP 1300


4-28-99